

Remarks/Arguments

After entry of this Amendment, claims 22, 43-46, and 48-52, as amended, will be pending. Claims 22, 46, 48, and 49 stand withdrawn as drawn to non-elected subject matter.

The abstract has been amended. No new matter has been added to the specification by the amendments.

Claims 43 and 44 have been amended to more particularly point out and distinctly claim the subject matter. Claim 43 has also been amended to clarify that HET is covalently bound to W and also is a disubstituted 1,2,4-triazole or a disubstituted imidazole. In other words, HET in fact has three substituents: W and two other substituents.

In addition, claims 43 and 46 have been amended to recite a pharmacologically acceptable salt. This amendment is supported, for example, on page 21, line 11 to page 22, line 9 of the specification as filed.

New claims 50 and 51 have been added. Claims 50 and 51 are supported, for example, on page 6, lines 26-31 and on page 21, line 11 to page 22, line 9 of the specification as filed. New claim 52 has also been added. Claim 52 is supported, for example, on page 31, line 7 of the specification as filed. Accordingly, no new matter has been added to the claims by these amendments.

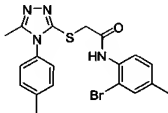
Election of Species:

As an initial matter, we would like to clarify the species election made in the Response to Restriction Requirement filed October 15, 2007. The species elected was made as follows: "Applicants elect N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-(4-phenyl)-4H-[1,2,4]triazole-3-ylsulfanyl)-acetamide, as disclosed on page 16, paragraphs [0093] and [0094] (see US published application 2006/135556 A1)." Response to Restriction Requirement dated October 15, 2007, p. 5. The chemical name and chemical structure identified, however, appear to relate to different compounds.

Page 31, lines 5-6 (page 16, paragraph [0093] of the published application), state: "N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-(4-phenyl)-4H-[1,2,4]triazole-3-

ylsulfanyl)-acetamide.” The starting materials and reagents disclosed at page 31, line 8 to page 32, line 2 (page 16, paragraphs [0095]-[0097] of the published application) support the synthesis of the titled compound.

Page 31, line 7 (page 16, paragraph [0094] of the published application) depicts, however, the following chemical structure:



The chemical structure is that of N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-(4-methylphenyl)-4H-[1,2,4]triazole-3-ylsulfanyl)-acetamide.

The compound that corresponds to the disclosed chemical structure falls within the elected genus of Group II (*i.e.*, claims 43-45), and, accordingly, was the intended elected species. The compound that corresponds to its disclosed chemical name does not fall within Group II and was not intended to be elected. It is therefore respectfully requested that the elected species be properly identified as N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-(4-methylphenyl)-4H-[1,2,4]triazole-3-ylsulfanyl)-acetamide in accordance with the chemical structure depicted in the example at page 31, line 7 of the specification.

Objection to the Abstract:

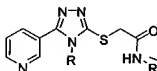
The Abstract stands objected to because it allegedly “refer[s] to purported merits or speculative applications of the invention and should not compare the invention with the prior art.” Office Action, p. 2. In response, the Abstract has been amended to overcome the Office’s objection. Accordingly, the objection is now moot and should be withdrawn.

Claim Rejections under 35 U.S.C. § 102(b):

Claims 43-45 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by L.N. Soliman, et al., “Synthesis of Some Substituted Mercaptotriazoles with Possible

Anticonvulsant and Monoamine Oxidase Inhibiting Activities," *Bull. Fac. Pharm. Cairo Univ.*, 28(2): 53-57 (1990) ("Soliman publication"). This rejection is respectfully traversed for the reasons discussed below.

The Soliman publication refers to mercaptotriazoles of the following formula:



wherein R is C₂H₅ (*i.e.*, ethyl), C₃H₅ (*i.e.*, allyl), C₆H₅ (*i.e.*, phenyl), or C₆H₁₁ (*i.e.*, hexyl). The Soliman publication does not disclose that R, which is covalently bound to a nitrogen of the 1,2,4-triazole, is a **substituted aryl**, as recited in claims 43-45. Because the Soliman publication does not disclose each and every recitation of the claims, the legal standard for anticipation has not been satisfied. Accordingly, the rejection of claims 43-45 under 35 U.S.C. § 102(b) as anticipated by the Soliman publication cannot stand and should be withdrawn.

Allowance:

The recitation on page 4 of the Office Action that the "elected compound N-(2-bromophenyl)-2-[[4-phenyl-5-(3-pyridinyl)-4H-1,2,4-triazol-3-yl]thio]-acetamide appears to be free of the art," and, thus, allowable, is acknowledged with gratitude. N-(2-bromophenyl)-2-[[4-phenyl-5-(3-pyridinyl)-4H-1,2,4-triazol-3-yl]thio]-acetamide, however, was not elected. Rather, as discussed above, the elected species is N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-(4-methylphenyl)-4H-[1,2,4]triazole-3-ylsulfanyl)-acetamide. It is respectfully requested that the Office indicate that the elected species N-(2-bromo-4-methylphenyl)-2-(5-methyl-4-(4-methylphenyl)-4H-[1,2,4]triazole-3-ylsulfanyl)-acetamide is also allowable.

Conclusion:

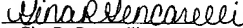
In view of the foregoing amendments and remarks, it is respectfully submitted that the claims are in condition for allowance. Early and favorable action by the

Examiner is earnestly solicited. If any outstanding issues remain, the Examiner is invited to contact the undersigned at (212) 497-7731 to discuss the same.

No fee is believed to be due for the submission of this response. Should any fees be required, please charge all such fees to Wilson, Sonsini, Goodrich & Rosati Deposit Account No. 23-2415 (Docket No. 18545-720.831).

Respectfully submitted,

Dated: May 14, 2008

By: 
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